

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSE COLON,

Plaintiff,

09 CV 8 (JBW)(CLP)

-against-

THE CITY OF NEW YORK, et al.,

Defendants.

X

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MAXIMO COLON,

09 CV 9 (JBW)(VVP)

Plaintiff,

-against-

THE CITY OF NEW YORK, et al.,

**NOTICE OF MOTION
TO DISMISS**

Defendants.

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PLEASE TAKE NOTICE that, upon the Declaration of Amy N. Okereke dated August 4, 2009, and the exhibits annexed thereto, the memorandum of law dated August 4, 2009, and upon all prior pleadings and proceedings herein, defendant City of New York will move this Court before the Honorable Jack B. Weinstein, United States District Judge, at the United States District Court for the Eastern District of New York, located at 225 Cadman Plaza East, New York, New York, at a date and time to be determined by the Court, for dismissal of the complaints with prejudice, pursuant to Rule 12(b)(6) on the grounds that plaintiffs have failed to state a claim against the City of New York.

PLEASE TAKE FURTHER NOTICE, plaintiffs' opposition papers, if any, should be served on the undersigned no later than September 4, 2009; and

PLEASE TAKE FURTHER NOTICE that defendant's reply papers, if any, shall be served on plaintiffs by September 18, 2009.

Dated: New York, New York
August 4, 2009

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorneys for Defendant City of New York
100 Church Street, Room 3-142
New York, New York 10007
(212) 788-9790

By:

A handwritten signature in black ink, appearing to read 'Amy N. Okereke', is written over a horizontal line.

Amy N. Okereke
Assistant Corporation Counsel
Special Federal Litigation Division

DECLARATION OF SERVICE BY MAIL

I, AMY N. OKEREKE, declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury that on August 4, 2009, I served the annexed DECLARATION OF AMY N. OKEREKE AND NOTICE OF MOTION upon the following counsel of record by depositing a copy of same, enclosed in a first class postpaid properly addressed wrapper, in a post office depository under the exclusive care and custody of the United States Postal Service, within the State of New York, directed to said counsel of record at the address set forth below, being the address designated by plaintiffs for that purpose:

Rochelle S. Berliner, Esq.
118-21 Queens Boulevard
Suite 504
Forest Hills, New York 11375

Christina Andrea Hall, Esq.
330 Cross Bay Blvd
Far Rockaway, New York 11693

Dated: New York, New York
August 4, 2009


AMY N. OKEREKE
ASSISTANT CORPORATION COUNSEL